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IDAHO LEGISLATURE

SECOND REGULAR SESSION
SIXTY-FIRST LEGISLATURE

**THIRTIETH LEGISLATIVE DAY
TUESDAY, FEBRUARY 7, 2012**

House of Representatives

The House convened at 11 a.m., the Speaker in the Chair.

Roll call showed all 70 members present.

Prayer was offered by Pastor Gary Moore.

The Pledge of Allegiance was led by Drew Nelson, Page.

Approval of Journal

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Twenty-ninth Legislative Day and recommend that same be adopted as corrected.

WILLS, Chairman

Mr. Wills moved that the report be adopted. Seconded by Mr. Burgoyne. Report adopted.

Consideration of Messages from the Governor and the Senate

OFFICE OF THE GOVERNOR
Boise

February 6, 2012

The Honorable Lawrence Denney
Speaker of the House

Dear Mr. Speaker:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following House bill, to wit:

[H 355](#)

As Always - Idaho, "Esto Perpetua"
/s/ C.L. "Butch" Otter
Governor

February 6, 2012

Mr. Speaker:

I return herewith enrolled [H 356](#) which has been signed by the President.

NOVAK, Secretary

Enrolled [H 356](#) was referred to the Judiciary, Rules, and Administration Committee for delivery to the Governor.

February 6, 2012

Mr. Speaker:

I transmit herewith [SCR 113](#), [S 1253](#), and [S 1269](#) which have passed the Senate.

NOVAK, Secretary

[SCR 113](#), [S 1253](#), and [S 1269](#) were filed for first reading.

February 6, 2012

Mr. Speaker:

I return herewith [H 364](#) which has passed the Senate.

NOVAK, Secretary

[H 364](#) was referred to the Judiciary, Rules, and Administration Committee for enrolling.

Report of Standing Committees

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled [H 357](#) and [H 363](#).

WILLS, Chairman

The Speaker announced he was about to sign enrolled [H 357](#) and [H 363](#) and, when so signed, ordered them transmitted to the Senate for the signature of the President.

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have transmitted enrolled [H 360](#), [H 361](#), and [H 362](#) to the Governor at 1:55 p.m., as of this date, February 6, 2012.

WILLS, Chairman

February 6, 2012

Mr. Speaker:

We, your COMMITTEE ON EDUCATION, report that we have had under consideration [H 426](#) and recommend that it do pass.

NONINI, Chairman

[H 426](#) was filed for second reading.

February 7, 2012

Mr. Speaker:

We, your COMMITTEE ON EDUCATION, report that we have had under consideration [S 1237](#) and recommend that it do pass.

NONINI, Chairman

[S 1237](#) was filed for second reading.

There being no objection, the House advanced to the Seventh Order of Business.

Motions, Memorials, and Resolutions

Notice having been served and having voted on the prevailing side, Mr. Lake asked unanimous consent that the House reconsider the vote by which [H 386](#) passed the House. There being no objection, [H 386](#) was before the House for reconsideration.

Mr. Lake asked unanimous consent that [H 386](#) be placed on General Orders for consideration. There being no objection it was so ordered.

HOUSE JOINT MEMORIAL NO. 9
BY ENVIRONMENT, ENERGY, AND TECHNOLOGY
COMMITTEE
A JOINT MEMORIAL

TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES, AND TO LISA JACKSON, ADMINISTRATOR OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Sixty-first Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the United States Environmental Protection Agency (EPA) has, for the past three decades, crippled industrial development in Shoshone County through its Superfund designation, based upon highly questionable scientific data; and

WHEREAS, this designation has resulted in the loss of thousands of well-paying jobs in the natural resource sector, while only creating a significantly lesser number of low-paying, seasonal jobs, which do not provide benefits to employees; and

WHEREAS, the abatement of any alleged local environmental "pollution" or "contamination" is neither necessary nor proper to effect the regulation of interstate commerce and is, therefore, a power reserved to the state or the people of the State of Idaho pursuant to the Tenth Amendment of the United States Constitution; and

WHEREAS, by the EPA's own admission, blood lead testing of local residents has proven that any alleged human health hazard has been effectively eliminated, to the extent that such a hazard ever existed; and

WHEREAS, the EPA is now proposing a plan in which it will perpetuate its unconstitutional, economically paralyzing usurpation of state and local authority for another fifty to ninety years at an estimated cost of nearly one billion dollars; and

WHEREAS, the Idaho Legislature was neither consulted nor given the opportunity to consider the EPA's recent, proposed Record of Decision (ROD) amendment in Shoshone County, as called for by Senate Concurrent Resolution 127, passed by the Second Regular Session of the Sixtieth Idaho Legislature in 2010.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Sixty-first Idaho Legislature, the House of Representatives and the Senate concurring therein, that the Legislature of the State of Idaho vehemently opposes and rejects the ROD amendment proposed by the EPA, and hereby demands that our local, state and federal elected officials do all in their power in order to ensure that the EPA restore all roads and other infrastructure in Shoshone County to a condition meeting or exceeding that prior to its presence in Shoshone County, and that it then end its presence in Shoshone County and rescind the Superfund designation within the next five years.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, the congressional delegation representing the State of Idaho in the Congress of the United States, and to Lisa Jackson, Administrator of the United States Environmental Protection Agency.

HJM 9 was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

SCR 113, by Local Government and Taxation Committee, was introduced, read the first time by title, and held at the Desk.

Introduction, First Reading, and Reference
of Bills and Joint Resolutions

HOUSE BILL NO. 479
BY TRANSPORTATION AND DEFENSE COMMITTEE
AN ACT

RELATING TO VETERANS; AMENDING CHAPTER 9, TITLE 66, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 66-908, IDAHO CODE, TO PROVIDE FOR THE APPOINTMENT OF THE ADMINISTRATOR OF THE DIVISION OF VETERANS SERVICES OR HIS DESIGNEE AS PAYEE, FIDUCIARY OR OTHER AGENT FOR THE PURPOSES OF RECEIVING FUNDS PAYABLE TO A RESIDENT OF A VETERANS HOME, TO PROVIDE FOR NOTICE, TO PROVIDE FOR APPEAL, TO AUTHORIZE RULEMAKING, TO PROVIDE THAT MONEYS SHALL BE KEPT IN TRUST, TO PROVIDE FOR APPLICATION OF FUNDS TO CERTAIN EXPENSES, TO PROVIDE FOR USE OF FUNDS FOR OTHER REASONABLE EXPENSES, TO PROVIDE FOR AN ACCOUNTING OF FUNDS AND TO PROVIDE FOR DISTRIBUTION OF FUNDS UPON DISCHARGE OF A RESIDENT AND PAYMENT OF ALL OUTSTANDING EXPENSES OF THE RESIDENT KNOWN TO THE ADMINISTRATOR.

HOUSE BILL NO. 480
BY TRANSPORTATION AND DEFENSE COMMITTEE
AN ACT

RELATING TO PARKING METERS; AMENDING SECTION 40-1415, IDAHO CODE, TO PROHIBIT A CITY FROM COLLECTING REVENUE AND ENFORCING ORDINANCES REGULATING THE USE OF PARKING METERS ON, ADJACENT TO OR ADJOINING ANY STATE-OWNED OR STATE-LEASED PROPERTY WHEREIN MEETINGS OF OR RELATED TO THE IDAHO LEGISLATURE ARE HELD DURING ANY SESSION OF THE IDAHO LEGISLATURE AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 481
BY EDUCATION COMMITTEE
AN ACT

RELATING TO PUBLIC CHARTER SCHOOLS; AMENDING SECTION 33-5203, IDAHO CODE, TO REVISE PROVISIONS RELATING TO THE NUMBER OF PUBLIC CHARTER SCHOOLS THAT MAY BEGIN EDUCATIONAL INSTRUCTION IN ANY ONE YEAR, TO PROVIDE A CORRECT CITE REFERENCE AND TO MAKE TECHNICAL CORRECTIONS.

HOUSE BILL NO. 482
BY LOCAL GOVERNMENT COMMITTEE
AN ACT

RELATING TO REPORTS ON CAPITAL AND SURPLUS; AMENDING SECTION 57-113, IDAHO CODE, TO CLARIFY WHEN THE REPORT ON CAPITAL AND SURPLUS IS TO BE FILED AND TO MAKE A TECHNICAL CORRECTION.

HOUSE BILL NO. 483
BY LOCAL GOVERNMENT COMMITTEE
 AN ACT

RELATING TO THE EXERCISE OF COUNTY POWERS; AMENDING SECTION 31-602, IDAHO CODE, TO ALLOW THE BOARD OF COUNTY COMMISSIONERS TO DELEGATE PURCHASING AUTHORITY BY WAY OF RESOLUTION.

HOUSE BILL NO. 484
BY LOCAL GOVERNMENT COMMITTEE
 AN ACT

RELATING TO BOARDS OF COMMUNITY GUARDIAN; AMENDING SECTION 15-5-602, IDAHO CODE, TO REMOVE REFERENCE TO THE LIMITATION FOR SUCCESSIVE YEARS ON A BOARD OF COMMUNITY GUARDIAN.

HOUSE BILL NO. 485
BY ENVIRONMENT, ENERGY, AND TECHNOLOGY COMMITTEE
 AN ACT

RELATING TO INCOME TAX DEDUCTIONS; AMENDING SECTION 63-3022B, IDAHO CODE, TO REVISE THE ELIGIBILITY CRITERIA FOR TAKING A STATE INCOME TAX DEDUCTION FOR INSTALLING ENERGY EFFICIENCY UPGRADE MEASURES WITHIN EXISTING RESIDENCES; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

HOUSE BILL NO. 486
BY HEALTH AND WELFARE COMMITTEE
 AN ACT

RELATING TO MINORS; AMENDING CHAPTER 15, TITLE 18, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 18-1524, IDAHO CODE, TO DEFINE TERMS, TO PROHIBIT THE USE OF A PHOTOTHERAPY DEVICE, TANNING DEVICE OR ULTRAVIOLET TANNING DEVICE ON MINORS, TO PROVIDE AN EXCEPTION AND TO PROVIDE PENALTIES.

HOUSE BILL NO. 487
BY HEALTH AND WELFARE COMMITTEE
 AN ACT

RELATING TO MENTAL HEALTH COMMITMENT; AMENDING SECTION 66-327, IDAHO CODE, TO REVISE PROVISIONS REGARDING RESPONSIBILITY FOR COSTS OF COMMITMENT AND CARE OF PATIENTS AND TO REVISE A DEFINITION.

HOUSE BILL NO. 488
BY REVENUE AND TAXATION COMMITTEE
 AN ACT

RELATING TO INCOME TAXATION; AMENDING SECTION 63-3029A, IDAHO CODE, AS AMENDED BY SECTION 1, CHAPTER 274, LAWS OF 2010, AND AS AMENDED BY SECTION 2, CHAPTER 354, LAWS OF 2010, TO PROVIDE AN ADDITIONAL ORGANIZATION FOR WHICH AN INCOME TAX CREDIT WILL BE GIVEN AND TO MAKE A TECHNICAL CORRECTION; AND AMENDING SECTION 63-3029A, IDAHO CODE, AS ADDED BY SECTION 4, CHAPTER 354, LAWS OF 2010, TO PROVIDE AN ADDITIONAL ORGANIZATION FOR WHICH AN INCOME TAX CREDIT WILL BE GIVEN; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION.

HOUSE BILL NO. 489
BY REVENUE AND TAXATION COMMITTEE
 AN ACT

RELATING TO USE TAX; AMENDING SECTION 63-3621, IDAHO CODE, TO PROVIDE THAT USE TAX SHALL NOT APPLY TO CERTAIN FREE TASTINGS OF BEVERAGES; AND DECLARING AN EMERGENCY.

[H 479](#), [H 480](#), [H 481](#), [H 482](#), [H 483](#), [H 484](#), [H 485](#), [H 486](#), [H 487](#), [H 488](#), and [H 489](#) were introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

[S 1253](#), by Judiciary and Rules Committee, was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee.

[S 1269](#), by Education Committee, was introduced, read the first time by title, and referred to the Education Committee.

There being no objection, the House advanced to the Tenth Order of Business.

Second Reading of Bills and Joint Resolutions

[H 391](#), by State Affairs Committee, was read the second time by title and filed for third reading.

Third Reading of Bills and Joint Resolutions

Mr. Nonini asked unanimous consent that [H 393](#) be placed on General Orders for consideration. There being no objection it was so ordered.

[H 394](#) - EDUCATION

[H 394](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Thayn to open debate.

The question being, "Shall [H 394](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Killen, King, Lacey, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayn, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 68.

NAYS – None.

Absent and excused – Lake, Roberts. Total – 2.

Total – 70.

Whereupon the Speaker declared that [H 394](#) passed the House. Title was approved and the bill ordered transmitted to the Senate.

[S 1223](#) - SCHOOL PROPERTY

[S 1223](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Ms. Boyle to open debate.

The question being, "Shall [S 1223](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayn, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 70.

NAYS – None.

Whereupon the Speaker declared that [S 1223](#) passed the House. Title was approved and the bill ordered returned to the Senate.

[S 1257](#) - APPROPRIATION - DEPARTMENT OF ADMINISTRATION

[S 1257](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Ms. Jaquet to open debate.

The question being, "Shall [S 1257](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Henderson, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayn, Thompson, Trail, Vander Woude, Wills, Wood(27), Mr. Speaker. Total – 64.

NAYS – Barbieri, Barrett, Harwood, McMillan, Schaefer, Wood(35). Total – 6.

Total – 70.

Whereupon the Speaker declared that [S 1257](#) passed the House. Title was approved and the bill ordered returned to the Senate.

[S 1258](#) - APPROPRIATIONS - LIBRARIES

[S 1258](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mrs. Bell to open debate.

The question being, "Shall [S 1258](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hartgen, Henderson, Higgins, Jaquet, Killen, King, Lacey, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould,

Ringo, Roberts, Rusche, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayn, Thompson, Trail, Vander Woude, Wills, Wood(27), Mr. Speaker. Total – 63.

NAYS – Barbieri, Barrett, Hart, Harwood, Lake, Schaefer, Wood(35). Total – 7.

Total – 70.

Whereupon the Speaker declared that [S 1258](#) passed the House. Title was approved and the bill ordered returned to the Senate.

[S 1267](#) - APPROPRIATION - VOCATIONAL REHABILITATION

[S 1267](#) was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Wood(27) to open debate.

The question being, "Shall [S 1267](#) pass?"

Roll call resulted as follows:

AYES – Anderson, Andrus, Barbieri, Barrett, Bateman, Batt, Bayer, Bedke, Bell, Bilbao, Black, Block, Bolz, Boyle, Buckner-Webb, Burgoyne, Chadderdon, Chew, Collins, Crane, Cronin, DeMordaunt, Ellsworth, Eskridge, Gibbs, Guthrie, Hagedorn, Hart, Hartgen, Harwood, Henderson, Higgins, Jaquet, Killen, King, Lacey, Lake, Loertscher, Luker, Marriott, McGeachin, McMillan, Moyle, Nessel, Nielsen, Nonini, Palmer, Patrick, Pence, Perry, Raybould, Ringo, Roberts, Rusche, Schaefer, Shepherd, Shirley, Simpson, Sims, Smith(30), Smith(24), Stevenson, Thayn, Thompson, Trail, Vander Woude, Wills, Wood(27), Wood(35), Mr. Speaker. Total – 70.

NAYS – None.

Whereupon the Speaker declared that [S 1267](#) passed the House. Title was approved and the bill ordered returned to the Senate.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 11 a.m., Wednesday, February 8, 2012. Seconded by Mr. Rusche. Motion carried.

Whereupon the Speaker declared the House adjourned at 11:39 a.m.

LAWRENCE DENNEY, Speaker

ATTEST:

BONNIE ALEXANDER, Chief Clerk